DOCUMENT RESUME

ED 456 016 RC 023 161

TITLE	Employment Needs of Amish Youth. Hearing before a Subcommittee of the Committee on Appropriations, United States Senate, One Hundred Seventh Congress, First Session. Special Hearing.
INSTITUTION	Congress of the U.S., Washington, DC.
REPORT NO	Senate-Hrg-107-94
PUB DATE	2001-00-00
NOTE	33p.
AVAILABLE FROM	For full text: http://www.access.gpo.gov/congress/senate/senate03sh107.html .
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC02 Plus Postage."
DESCRIPTORS	Adolescents; *Amish; *Child Labor; Experiential Learning; Federal Legislation; Hearings; Labor Legislation; *Nonformal Education; *Occupational Safety and Health; *Out of School Youth; Vocational Education; Woodworking
IDENTIFIERS	Congress 107th; Fair Labor Standards Act; *Sawmill Workers

ABSTRACT

A Senate subcommittee hearing received testimony concerning a proposed amendment to the Fair Labor Standards Act (FLSA) to permit Amish youth, ages 14-18, to work under adult supervision in sawmills. Current Department of Labor regulations ban the employment of minors in sawmill operations. This poses a problem for Amish youth who finish their formal education in the eighth grade and have very few employment opportunities. Employment in family-run sawmills and woodworking shops provides an opportunity for them to continue their instruction in the workplace under adult supervision with continuing guidance. The Amish view such work as a form of vocational education, called learning by doing. Amish families have received large fines for having their own children in the workplace, even when they were not in unsafe conditions. Congressmen, representatives of Amish organizations, and Amish people affected by the FLSA gave testimony in favor of the amendments. A representative of the Department of Labor discussed the extremely high injury rates in lumber and woodworking occupations, the Department's efforts to accommodate the unique circumstances of Amish youth, and the difficulties in enforcing amendment provisions prescribing distances to be maintained between adolescent workers and hazardous situations. (SV)

Reproductions supplied by EDRS are the best that can be made
from the original document.

R

S. HRG. 107–94

EMPLOYMENT NEEDS OF AMISH YOUTH

ED 456 016

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

SPECIAL HEARING

MAY 3, 2001—WASHINGTON, DC

Printed for the use of the Committee on Appropriations

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

Available via the World Wide Web: http://www.access.gpo.gov/congress/senate

U.S. GOVERNMENT PRINTING OFFICE

73-028 PS WASHINGTON : 2001

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

RC 023161

BEST COPY AVAILABLE 2

COMMITTEE ON APPROPRIATIONS

TED STEVENS, Alaska, *Chairman*

THAD COCHRAN, Mississippi
ARLEN SPECTER, Pennsylvania
PETE V. DOMENICI, New Mexico
CHRISTOPHER S. BOND, Missouri
MITCH McCONNELL, Kentucky
CONRAD BURNS, Montana
RICHARD C. SHELBY, Alabama
JUDD GREGG, New Hampshire
ROBERT F. BENNETT, Utah
BEN NIGHTHORSE CAMPBELL, Colorado
LARRY CRAIG, Idaho
KAY BAILEY HUTCHISON, Texas
MIKE DEWINE, Ohio

ROBERT C. BYRD, West Virginia
DANIEL K. INOUYE, Hawaii
ERNEST F. HOLLINGS, South Carolina
PATRICK J. LEAHY, Vermont
TOM HARKIN, Iowa
BARBARA A. MIKULSKI, Maryland
HARRY REID, Nevada
HERB KOHL, Wisconsin
PATTY MURRAY, Washington
BYRON L. DORGAN, North Dakota
DIANNE FEINSTEIN, California
RICHARD J. DURBIN, Illinois
TIM JOHNSON, South Dakota
MARY L. LANDRIEU, Louisiana

STEVEN J. CORTESE, *Staff Director*
LISA SUTHERLAND, *Deputy Staff Director*
JAMES H. ENGLISH, *Minority Staff Director*

SUBCOMMITTEE ON DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

ARLEN SPECTER, Pennsylvania, *Chairman*

THAD COCHRAN, Mississippi
JUDD GREGG, New Hampshire
LARRY CRAIG, Idaho
KAY BAILEY HUTCHISON, Texas
TED STEVENS, Alaska
MIKE DEWINE, Ohio

TOM HARKIN, Iowa
ERNEST F. HOLLINGS, South Carolina
DANIEL K. INOUYE, Hawaii
HARRY REID, Nevada
HERB KOHL, Wisconsin
PATTY MURRAY, Washington
MARY L. LANDRIEU, Louisiana
ROBERT C. BYRD, West Virginia
(Ex officio)

Professional Staff
BETTILOU TAYLOR
MARY DIETRICH
JIM SOURWINE
ELLEN MURRAY *(Minority)*

Administrative Support
CORREY DIVINEY
CAROLE GEAGLEY *(Minority)*

CONTENTS

	Page
Opening statement of Senator Arlen Specter	1
Statement of Hon. Joseph Pitts, U.S. Representative from Pennsylvania	2
Prepared statement	4
Statement of Hon. Mark Souder, U.S. Representative from Indiana	5
Prepared statement	7
Statement of Thomas M. Markey, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor	10
Prepared statement	12
Statement of Christ Blank, chairman, Old Order Amish Steering Committee, Kinzers, PA	15
Prepared statement	17
Statement of William Burkholder, owner, C.B. Hardwood Lumber Co., Centerville, PA	18
Prepared statement	20
Statement of Herman Bontrager, Secretary/Treasurer, National Committee for Amish Religious Freedom	20
Prepared statement	22
Statement of Noah Byler	27
Statement of John Byler	28

EMPLOYMENT NEEDS OF AMISH YOUTH

THURSDAY, MAY 3, 2001

U.S. SENATE,
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SH–216, Hart Senate Office Building, Hon. Arlen Specter (chairman) presiding.

Present: Senator Specter.

OPENING STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Good morning, ladies and gentlemen. The hearing of the Appropriations Subcommittee on Labor, Health and Human Services, and Education will now proceed with the clock striking 9:30.

At the outset, we welcome representatives from the Amish who are here from not only Pennsylvania, but New York and Ohio. We welcome the distinguished Congressman Joe Pitts, who will be joined in a few minutes by Congressman Mark Souder from Indiana.

Today's hearing involves legislation which has twice passed the House of Representatives, after the introduction by and support of Congressman Pitts, and similar legislation which has been introduced in the Senate by this Senator to amend the Fair Labor Standards Act to permit Amish youth, ages 14 to 18, to work under adult supervision in sawmills.

This issue arises because Department of Labor regulations ban the employment of minors from working in sawmill operations. This poses a problem for Amish youth who finish their formal education in the eighth grade and have very few employment opportunities. The employment in the sawmills with their families provides an opportunity for them to continue their instruction in the workplace under adult supervision with continuing guidance.

There has been opposition raised on constitutional grounds that legislation might confer benefits only to youths who are members of a religious sect, or division thereof, whose established teachings do not permit formal education beyond the eighth grade and that by conferring the benefit of working in a sawmill only to adherence of certain religions, the Department of Justice has contended that the bill appears to impermissibly favor religion to irreligion. My own view is that it is possible to have legislation which does not run afoul of the Constitution, and we have proposed just that.

The Department of Labor, under the Clinton administration, opposed both Congressman Pitt's bill and my bill, questioning whether current regulations afford Amish minors equal protection under the laws and raised some questions about safety. I raised this issue yesterday with Secretary of Labor Elaine Chao who appears more flexible than her predecessors, and she has committed herself to studying the issue. It is my view that unless we can get administrative relief from the Department of Labor, legislation is entirely appropriate, and we are convening today's hearings to pursue just that matter.

STATEMENT OF HON. JOSEPH PITTS, U.S. REPRESENTATIVE FROM PENNSYLVANIA

Senator SPECTER. It is a pleasure to welcome my colleague from Pennsylvania's 16th congressional district encompassing Lancaster and Chester Counties. Congressman Joseph Pitts is a third term Congressman holding a bachelor's degree from Ashbury College, a Captain in the Air Force, a school teacher, a small business owner. He has had a distinguished record in the U.S. House of Representatives, serving on the Energy and Commerce Committee and on the International Relations Committee.

Congressman Pitts, it is a pleasure to welcome you here and we look forward to your testimony. Our general rule is to turn the lights on at 5 minutes, but not for Congressmen.

Mr. PITTS. Thank you, Senator. Thank you, Mr. Chairman.

Today your subcommittee is addressing an issue very important to the Amish community who reside in over 20 States in this country. I want to thank you for holding this important hearing.

People around the world know of the Old Order Amish as a people who till their land and direct their lives with faith, simplicity, and discipline. Traditionally Amish communities are centered around the family farm which requires input from the whole family. While caring for crops and animals, Amish parents show their children how to make a living without exposure to outside influences that contradict their beliefs.

However, development pressures and the soaring price of farmland have forced the Amish to look for alternatives to farming, and now Amish can be found in small businesses making raw lumber, clocks, wagons, cabinetry, quilts, and many other things.

Therefore, as they did on the family farm, the Amish now wish to have their youth work with them in these vocational settings. Typically the youth will learn a trade after the completion of Amish school, which is equivalent to an eighth grade education.

The Amish view this work as part of their schooling since they often accompany a parent to the workplace, and they call this learning by doing.

Unfortunately, these small Amish-owned businesses have received costly fines from the Department of Labor for having their young adults work alongside their fathers and uncles, even in family businesses.

Mr. Chairman, recently an Amish businessman in my congressional district was fined $8,000 for having his own child in the front office of his business. This teenager was simply learning to

use the cash register alongside her father. She was far from harm's way.

These actions by the Department of Labor have severely threatened the lifestyle and religion of this respected and humble community.

The Amish expect diligence, responsibility, and respect from their youth. They do not contribute to the social ills of our society, and they do not accept any assistance from Government programs. Our Government should not interfere with this humble community.

Several of my colleagues, along with our Amish constituents, met with Department of Labor officials several times over the past 3 to 4 years to find a solution to this problem. Unfortunately, we received nothing but negative responses from the Department of Labor. I am hopeful that with a new administration in the White House, we will receive a more positive response this year.

The Amish have a very unique situation. They complete their formal schooling at the end of eighth grade. They do not have the benefit of shop or vo-tech which my son and our youth have in high school. But they want their young people to learn a work ethic and a trade.

We have a responsibility to evaluate the Amish in that light, and that is why I, along with numerous other members, last Congress introduced H.R. 221, legislation to address the employment needs of the Amish youth.

H.R. 221 of the 106th Congress passed under suspension on March 3, 1999. The same bill, H.R. 4257, passed under suspension in the 105th Congress on September 28, 1998. It has bipartisan support in the House. However, as you know, this legislation has not moved in the Senate.

This narrow legislation will only allow young adults of the Amish faith to accompany a parent or a relative to work in places of business where machinery is used to process wood products. Our bill requires that the young adult have adult supervision. It prohibits them from operating the machinery. It provides numerous safety protections for these individuals.

Mr. Chairman, many communities like Lancaster County, PA, of my district, greatly appreciate the heritage and work ethic of the Amish, and we wish to keep them as a part of our communities. However, if the Amish continue to be attacked by the Federal or State governments, they will be driven out of our communities. Their strong heritage will be undermined by governmental interference.

PREPARED STATEMENT

So, I urge the Senate to protect the Amish heritage. Mr. Chairman, I am very grateful for your assistance and for this hearing, and I am hopeful that we can work together to find a solution to this problem.

Thank you for inviting me to testify at the hearing.

[The statement follows:]

PREPARED STATEMENT OF REP. JOE PITTS

Mr. Chairman, today your subcommittee is addressing an issue important to the Amish community who reside in over 20 states in this country. I thank you for holding this important hearing.

People around the world know of the Old Order Amish as a people who till their land and direct their lives with faith, simplicity and discipline.

Traditionally, Amish communities are centered around the family farm, which requires input from the whole family. While caring for crops and animals, Amish parents show their children how to make a living without exposure to outside influences that contradict their beliefs.

However, increasing development pressures, and the soaring price of farmland, have forced the Amish to look for alternatives to farming. Now Amish can be found in small businesses making raw lumber, clocks, wagons, cabinetry, and quilts.

Therefore, as they did on the family farm, the Amish now wish to have their youth work with them in these vocational settings. Typically, the youth will learn a trade after the completion of Amish school, or eighth grade.

The Amish view this work as part of their schooling; since they often accompany a parent to the workplace.

They call this "learning by doing."

Unfortunately, these small, Amish-owned businesses have received costly fines from the Department of Labor for having their young adults work alongside their fathers and uncles, even in family businesses.

Mr. Chairman, recently an Amish businessman in my congressional district was fined eight thousand dollars for having his own child in the front office of his business. This teenager was simply learning to use the cash register alongside her father. She was far from harm's way.

These actions by the Department of Labor have severely threatened the lifestyle and religion of this respected and humble community.

The Amish expect diligence, responsibility, and respect from their youth. They do not contribute to the social ills of our society, and they do not accept any assistance from government programs.

Our government should not interfere with this humble community.

Several of my colleagues, along with our Amish constituents, met with Department of Labor officials several times over the past two years to find a solution to this problem.

Unfortunately, we received nothing but negative responses from the Department of Labor. I am hopeful that, with a new Administration in the White House, we will receive a more positive response this year.

The Amish have a very unique situation. They complete their formal schooling at the end of eighth grade. They do not have the benefit of "shop" and vo-tech our youth have in high school.

We have a responsibility to evaluate the Amish in that light.

That is why I, along with numerous other members, last Congress introduced H.R. 221, legislation to address the employment needs of Amish youth.

H.R. 221 of the 106th Congress passed under suspension on March 3, 1999. The same bill, H.R. 4257, passed under suspension in the 105th Congress on September 28, 1998. It has bipartisan support in the House. However, as you know, this legislation has not moved in the Senate.

This narrow legislation will only allow young adults of the Amish faith to accompany a parent or relative to work in places of businesses where machinery is used to process wood products. My legislation requires that the young adult have adult supervision, it prohibits them from operating machinery, and it provides numerous safety protections for these individuals.

Mr. Chairman, many communities, like Lancaster County, Pennsylvania, of my district, greatly appreciate the heritage and work ethic of the Amish, and we wish to keep them as a part of our communities.

However, if the Amish continue to be attacked by the State and Federal government, they will be driven out of our communities.

Their strong heritage will be undermined by governmental interference.

I urge the Senate to protect the Amish heritage.

Mr. Chairman, I am hopeful we can work together to find a solution to this problem.

Thank you for inviting me to this hearing.

Senator SPECTER. Thank you very much, Congressman Pitts.

STATEMENT OF HON. MARK SOUDER, U.S. REPRESENTATIVE FROM INDIANA

Senator SPECTER. We now turn to Congressman Mark Souder who is in his fourth term, representing Indiana's 4th district. He is chairman of the Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, and also serves on the House Committee on Education and the Workforce, as well as the Natural Resources Committee. Congressman Souder holds a bachelor's degree from Indiana University at Fort Wayne and an M.B.A. from the University of Notre Dame. Welcome, Congressman Souder, and we look forward to your testimony.

Mr. SOUDER. Thank you very much. I apologize for being late. The chairman called an emergency meeting on the education bill that we are marking up.

Senator SPECTER. Congressman Souder, I know how busy you are in the House. On a Thursday, it is tough to be every place. We are grateful to you for being here. We proceeded in the interest of time, and Congressman Pitts agreed, in your absence, as your de facto agent. We are pleased to have you here.

Mr. SOUDER. Well, thank you. I am going to just make a few remarks, if you can put my written remarks in the record.

Senator SPECTER. Without objection, they will be made a part of the record. We will be interested in hearing your extemporaneous comments.

Mr. SOUDER. We share many things in Pennsylvania and Indiana, including my family's heritage. There is a Soudersberg just east of Lancaster and a Souderton just north of Philadelphia which has a number of my distant relatives. My great, great grandpa was Amish, left when he turned 18 and helped form the denomination that I grew up in in Indiana. I represent the 2nd, 7th, and 10th largest Amish settlements, the areas in LaGrange-Shipshewnna, Grabill-Harlan, and Berne-Geneva area, and in redistricting. It looks like I am going to get another of the areas in the Middlebury and Nappanee areas.

All those settlements are Old Order, but I also even in the Old Order settlements have a lot of topless Amish and non-topless Amish. In other words, unlike the liberal Amish in Pennsylvania, many of our Amish do not have tops on their buggies and cannot marry the Amish who have tops on their buggies because we have multiple different groups that are very conservative.

It is very hard for them to maintain their lifestyle. The lands in Indiana, like in Pennsylvania and Ohio, which are the largest settlements, are increasingly under pressure from the growth of the cities and suburbs. As the families subdivide and save up all their earnings to get a little bit more farmland, they can barely exist.

Generally speaking, the first place they will turn is woodworking. Often the woodworking will begin just in a barn while they are trying to farm in the morning and farm in the evening, but make a little additional income during the day so they can maintain their lifestyle. As the land gets more expensive, if they do not have that option, we have had some go up into the rural parts of Michigan, but they are being crowded there now too with tourism, or in other parts of the United States. Some are having to flee overseas. And a country of religious liberty, in fact, through good intentions in

many cases, has put a severe strain on those who will not follow our way toward mechanization and automation of everything.

I think that the compromise that we have is reasonable, as I have visited many of these facilities in my area. As Congressman Pitts said, the kids leave school, and part of their extended family is then to train them in a vocation, both in farming and in supplemental ways to earn an income in woodworking, generally speaking, making wood pallets or chests or other sorts of woodworking items, furniture.

They do not and they are not allowed to actually work the machinery. The question is, particularly in these smaller sized facilities, but even a little bit larger, is it even practical to say that when these kids are, in effect, doing vocational education, that they cannot even be in the same building? Part of the reason they do this is to have the extended family to work together.

I would also argue, as Congressman Pitts has said, that not only do we not see the injuries, but that we see a group of people who have a totally different lifestyle who are not exposed to other risks that many of our children have. For example, they are not out racing cars.

Now, we have had, in my small hometown of 700, one case where two Amish kids were drag racing buggies, but that puts a whole different sense on the risk to them and the community. If they overturn, they might skin a leg.

We also had one who violated their culture, and he was drinking too much. He took his buggy up on a sidewalk and one lady got scared.

But this is a whole different mentality than the rest of us are used to. We do not see kids in the Amish community dying of drug overdoses, of hot-rodding around and dying and doing other dangerous activities.

What we have is something that is essential to their being able to continue, the woodworking. In effect, if we do not make these changes, putting their culture at risk and their ability to function in our society—the Amish position is not, as I often have heard, that whoever is behind the wheel of an automobile is the devil. The devil is behind the wheel. It is not that they cannot get a ride from somebody else, and they can contract, as I am sure you have seen in Pennsylvania.

The philosophy is that they should go slower because idle time is the devil's workshop. They believe in their culture that it is important that they work basically from sunup to sundown, and if they do not have these activities to keep people busy and the extended family, that is how you get into evil. They are not against the telephone per se. They are against the misuse of the telephone and the gossip.

Now, some people have asked me, when we have debated this bill in the Education and Workforce Committee, does this not give the Amish a competitive advantage? I would say if you are willing to go without a telephone, if you are willing to go without a car and air conditioning and you want to join the Amish faith, it is not that you get a competitive advantage, you give up so many other things. They are scraping to barely make it.

PREPARED STATEMENT

We did a study years ago when I worked for Congressman Coats and then Senator Coats. The areas that are the poorest in this country have the least usage of food stamps and AFDC, 4 of those top 10 counties are Amish. They do not need more money. All they are asking to do is, as long as they are not bothering others and as long as they are not endangering the children directly, please let them exist in this society because not everybody—I admit I am more of a materialist, but not everybody should have to be to be able to exist in America.

I yield back my time.

[The statement follows:]

PREPARED STATEMENT OF REP. MARK SOUDER

Mr. Chairman and Members of the Committee, I appreciate this opportunity to testify today on the employment needs of Amish youth. I support the continued efforts of my colleagues from Pennsylvania, Mr. Specter and Mr. Pitts, to pursue a remedy to a problem that jeopardizes the culture and religion of a segment of society that asks so little from government: the Amish.

I am not a passive observer on these issues. Not only do I represent the 3rd, 7th, and 10th largest "old order" Amish settlements in the country (about 20,000 altogether), but I am a direct descendent of one of the first Amish settlers in Northeast Indiana. In 1846, my great-great grandfather settled in the Hoosier state. While he left the faith and culture around the turn of the century, I still have relatives who continue to practice the Amish tradition. Furthermore, I was raised in a small town—Grabill, Indiana—which is surrounded by Amish families. Growing up, I had the unique opportunity to witness first-hand the traditions of this religious and cultural community.

I have been monitoring this issue very closely since it was first brought to my attention by Congressman Pitts in early 1997. Because Amish practice includes instilling a work ethic early in life, Amish children end their formal schooling after eighth grade and participate in state-approved apprenticeship programs in such fields as wood working and farming. In recent years several lumber facilities in Pennsylvania were heavily fined by the Department of Labor for employing Amish teenagers, aged 14–17 years. Some of the cases in which the Labor Department assessed fines involved 14- and 15-year-olds who were working in a wood shop stacking objects and sweeping floors and were not in close proximity to machinery. Since these events were brought to our attention, several of my colleagues and I have met with Labor officials and Amish representatives from Pennsylvania to discuss this issue. These meetings were called to discuss potential administrative remedies that would permit Amish youth to work with heavy machinery for eight hours a day. Unfortunately, while the Department of Labor officials appeared at initial meetings to be willing to find an administrative compromise, DoL officials later stated that administrative remedy was not possible based on current law.

This impasse is what brings us here today to consider these issues. Current law must be clarified in order to continue the Amish tradition of providing teenagers with a practical education—one that allows them to work alongside their relatives and church family. In the 106th Congress, I was a cosponsor of H.R. 221, which passed the House of Representatives by unanimous consent. This bill, introduced by Congressman Pitts, would have allowed Amish teenagers to continue to do certain jobs where machinery is used to process wood products. I believe this bill was a fair compromise, representing nearly 18 months of negotiations with the Department of Labor, and I will support this bill again when it is reintroduced by Congressman Pitts in the House of Representatives this year.

Simply put, this bill would allow Amish teenagers aged 14 through 18 to continue to work in woodworking facilities while including sound provisions to protect these young workers. As a father of three children—two of whom are of working age—I would never advocate for a bill that would place teenagers in an unduly unsafe work environment. Safety provisions have been carefully considered and were included in this legislation. The bill would require that these young workers be supervised by adults who know and care about them. It also would prohibit Amish youth from working with power-driven machinery and require these teenagers to be protected from flying debris, excessive noise, and sawdust.

At the same time, I believe this bill would preserve the traditional way of life of the Amish, whose youth finish their formal education by the eighth grade and then turn to a different style of religious, cultural, and "vocational" education. This bill would protect a truly endangered religion and culture that cannot afford to be trampled on by federal micro-management. As many of us understand, the Amish way of life is largely self-sufficient and agricultural. Such a lifestyle limits their interaction with the government.

Farming is becoming an increasingly difficult livelihood for many Amish—unplowed land is difficult to find and increasingly expensive, and competing with industrial farms that use heavy equipment is overwhelming to small Amish family farms. Many Amish families have been forced into corollary industries like arts & crafts, woodworking, home building, pallet building, and furniture making. Woodworking is a historic byproduct of agriculture that can be done as a local industry. I believe the federal government should not unduly micro manage the Amish woodworking environment. To do so could force into extinction a culture and religion that is fundamentally important to this country.

The Amish represent a unique segment of Americans that rely on self-sufficiency rather than assistance from government. They are a peace-loving people who came to America in the Anabaptist tradition to escape government regulation and persecution, so they could practice their religion and faith without government interference. Government bureaucracy threatens the Amish people's very way of life. The Amish are an important part of our heritage in northeast Indiana, and I believe we must do what we can to protect their religious beliefs and practices. If we fail to do so, we run the risk of forcing these hardworking, family-oriented people to leave our communities in search of religious freedom elsewhere. Let's not hinder their ability to continue providing for themselves and their families, or to maintain their cultural and religiously-based "learn by doing" apprenticeships.

Again, thank you for inviting me to testify on this issue today.

Senator SPECTER. Thank you very much, Congressman Souder and Congressman Pitts. I think that the factors which you have testified to really go to the issue of freedom of religion contrasted with a violation of the Establishment Clause on any special considerations here.

I am intrigued, Congressman Souder, by your comment that a practice of not marrying where the different families have different style carriages, one with tops and one without tops. Will you amplify that?

Mr. SOUDER. Yes. In the community, the really strict Old Order, there are a range of Amish. They even have what they call Black Car Amish or King's Amish. Those are really Mennonites.

For example, in the Lancaster area and going north from Lancaster, mostly you see the carriages and the tops on the buggies. But in my hometown area and in Berne and Geneva and in southwest Indiana, they are not allowed to have anything over their heads. They have added boxes in the back because kids in the English community, as they would say, have rocked them. There was a baby killed in one Amish buggy because kids were just throwing stones at the buggy and a baby was killed. So, they have allowed to put boxes on the back now, even in the Old Order.

But part of the philosophy even in the most conservative Amish group——

Senator SPECTER. Boxes on the back?

Mr. SOUDER. In other words, in a buggy you will have a seat where the people who are driving the buggy sit, but there is usually a storage area in the back. Now they have a box that comes up over the back seat where small children——

Senator SPECTER. Head level to stop a lateral object from striking them in the head?

Mr. SOUDER. Yes, which is a pathetic commentary. I do not think any of the deaths have been on purpose, but there have been a number of them because it is fun for other kids who are out partying or whatever to throw stones at the Amish because they are different, much like other groups in our society. It is not just kind of the traditional groups you hear. The Amish suffer this persecution all the time. They are laughed at because of the way they dress. They are mocked because often they do not speak English as much or they are not supposed to to outsiders.

But I asked one of my friends, I said, do you not get cold, or do you just kind of get used to it by not having any top on your buggy? He said, we have colds all winter long. The reason they sacrifice with that is that part of the assumption is that if you do not have a top on your buggy and it is cold out or hot out, you are going to think before you go into town, before you go gallivanting around and getting in trouble because there is some uncomfortability to it. It is usually serious tasks. These are a serious people, and that is the philosophy.

Senator SPECTER. How about the marriage issue?

Mr. SOUDER. The marriage issue outside their faith do you mean?

Senator SPECTER. Well, no. You had made a comment, as I understood it——

Mr. SOUDER. Oh, they cannot marry. Much like a very conservative Old Order Amish who does not allow tops—and each bishop gets to set the guidelines for their subgroup. They cannot marry the more liberal Amish any more than, say, by traditional doctrine, a Catholic could marry a Mennonite. In other words, it is almost as rigid a differentiation in some of the subgroups of Amish.

Senator SPECTER. And the differentiation would apply even if the distinction is having a top on the carriage.

Mr. SOUDER. Yes, although generally speaking, that is a sign that—for example, in my Grabill-Harlan community, they cannot have a pay phone on their porch, which in parts of Pennsylvania you can have a pay phone on your porch. They can have one at a corner, but the assumption is that the closer that phone gets to the house, the more gossip you are going to do. Therefore, if you are going to walk out into the cold and make a call, it is probably going to be a serious call as opposed to just kind of gossiping about your neighbors.

I used the topless because it is the most dramatic thing that outsiders can see, but it is usually a sign of this creeping liberalism, as they would say, that would also put a phone on your porch. It might even have a few colors. You can see in some parts of Pennsylvania, some Amish have a little bit of the brighter purple shirts as opposed to the pure white or dark blue.

Senator SPECTER. Well, it certainly illustrates the views and convictions of the Amish which they are entitled to. They are very strict, as they choose to be, about standards of conduct.

Well, it is a very interesting matter. My sense is that when it is better understood in the Senate, we will have a little better luck getting the legislation through.

As you gentlemen know, this is an appropriations subcommittee, so we cannot mark up a bill and send it in, but I am turning in

my mind whether we might offer this as an amendment to the education bill or whether we may be able to persuade the authorizers to have a markup and carry it out. So, we will give it very careful attention.

Congressman Pitts?

Mr. PITTS. Mr. Chairman, my son, when he was 14, had shop class in high school and they had 15 or 16 students in the shop class. He made our home a beautiful table using a band saw and power tools. There was one teacher in that shop class.

Now, we are not asking, with the legislation, that these young people be even permitted to use the power tools, just be in the vicinity, sweep sawdust, glue lumber, fill out paperwork, learn the work ethic of the trade, but not actually use the power tools. We have even put common sense safety precautions in here, like barriers, and they are supervised by an adult and protected from wood particles or other flying debris. So, we think that this is a very good compromise.

Senator SPECTER. Well, thank you very much. That leads us very naturally into the representative of the Department of Labor. We thank you very much for coming, Congressman Pitts, Congressman Souder, and good luck on your agenda today. I know you are very busy in the House.

STATEMENT OF THOMAS M. MARKEY, ACTING ADMINISTRATOR, WAGE AND HOUR DIVISION, EMPLOYMENT STANDARDS ADMINISTRATION, U.S. DEPARTMENT OF LABOR

Senator SPECTER. Our next witness is Mr. Tom Markey, Acting Administrator of the Wage and Hour Administration, Department of Labor. Mr. Markey provides leadership in the administration and the enforcement of a variety of labor standards that enhance the welfare and protect the rights of the Nation's workers. He served as a 1st Lieutenant in the Army and holds a bachelor's degree from Rutger's University. Thank you for joining us, Mr. Markey.

In accordance with our practice, any statement will be made a part of the record in full, and we will ask you to limit your comments to 5 minutes as our lights will record the timing. You may proceed.

Mr. MARKEY. Mr. Chairman, thank you for the invitation to appear today to discuss the Fair Labor Standards Act child labor provisions and the Department of Labor's implementing regulations. Specifically, I will discuss how the current statutory and regulatory provisions apply to youth employment in lumber and woodworking occupations. I would also like to talk about our review of two proposals previously suggested by the Amish community to employ its youth in sawmilling and woodworking industries.

Let me first affirm the Department's respect for the cultural and religious traditions of the Amish community. We recognize the challenges the community faces in preserving these traditions and way of life.

As their faith prescribes, Amish children end their formal education upon completion of the eighth grade. Thereafter, they are exempt from State laws making school attendance compulsory. For this reason, the Department permits Amish youth who have completed the eighth grade and are at least 14 years of age to work

more hours than are normally permitted 14- and 15-year-olds and to work during traditional school hours. This is a longstanding accommodation made by the Department.

Following the end of their formal education, Amish youth begin working alongside their families and others in the community. In the past, many Amish children worked on a family farm. However, with farmland becoming scarce and expensive, these opportunities have declined. Many of the young people now transition to nonfarm occupations like woodworking. As I will discuss, however, the employment of youth in sawmill and woodworking industries is, like many other industries, limited by the statutory and regulatory requirements of the FLSA.

The FLSA specifically prohibits minors under the age of 16 from working in manufacturing. This includes sawmill and woodworking industries. The statute also directs the Secretary of Labor to prohibit the employment of minors under the age of 18 in occupations found to be particularly hazardous or detrimental to their health. The Secretary makes these determinations in Hazardous Occupation Orders issued through the rulemaking process. There are currently 17 orders in non-agricultural industries, and two are of particular concern.

HO No. 4 prohibits minors under 18 years of age from assuming any occupation in a sawmill. Not only are the tasks in these areas too dangerous for young workers, the areas themselves are considered too dangerous. This order does, however, contain a limited exception which would permit 16- and 17-year-olds to perform tasks such as cleaning up the yard and working in offices and repair or maintenance shops that are not in the sawmill building. 14- and 15-year-olds may only work in offices and only if the work does not entail entering the sawmill building.

HO Order No. 5 prohibits minors under the age of 18 from operating and assisting to operate most power-driven woodworking machines. Until they reach the age of 18, young workers can only operate machines or tools not prohibited by the order and can carry out such tasks as moving materials around and handling or shipping lumber products. 14- and 15-year-olds employed by the woodworking operation may only work in the offices.

In 1966, the Department had an enforcement effort in western Pennsylvania and found child labor violations in sawmills. Three of the establishments investigated were Amish-owned and many others employed Amish youth.

Following these investigations, the Wage and Hour Division of the Department met with members of the Old Order Amish and their congressional representatives to discuss a request for an accommodation that would permit Amish youth to work in the sawmill and other woodworking industries. Departmental representatives explained the statutory mandate that youth under 16 may not be employed in manufacturing, the child labor hazardous orders in question, the basis for these orders, and the Pennsylvania law prohibiting minors under 18 from work involving woodworking equipment and saws. At that time, the Department made no specific accommodation but did offer compliance assistance and outreach to the Amish community.

In 1997, at the request of congressional representatives, the Department explored the feasibility of two specific proposals to allow 16- and 17-year-olds to work in sawmills. The first proposal would have allowed 16- and 17-year-olds to work in the sawmill building as long as they remained at least 150 feet away from the equipment. The Department decided and continues to believe that such a rule would be very difficult to administer. It would be difficult to substantiate whether or how often any distance rule was observed. Moreover, it would be difficult for the employer to comply because youth would likely be called to approach the machinery——

Senator SPECTER. Mr. Markey, your time has expired. I believe the staff told you it would be 5 minutes. Your full statement will be part of the record. Could you summarize the balance?

Mr. MARKEY. Yes, I will.

PREPARED STATEMENT

The injury rates in these occupations are extremely high. They are double that in all other industries. Because of that, with young workers' inexperience, smaller size, immaturity, and lack of training, it would be very difficult for the Department to establish a regulatory record that would support a change in the existing hazardous occupation orders in light of the identified hazards.

[The statement follows:]

PREPARED STATEMENT OF THOMAS M. MARKEY

Mr. Chairman and Members of the Subcommittee, thank you for the invitation to appear today to discuss the Fair Labor Standards Act (FLSA) child labor provisions and the Department of Labor's implementing regulations. Specifically, I will discuss how the current statutory and regulatory provisions apply to youth employment in lumber and woodworking occupations. I would also like to talk about our review of two proposals previously suggested by the Old Order Amish community to employ its youth in the sawmilling and woodworking industries.

Let me first affirm the Department's respect for the cultural and religious traditions of the Amish community. We recognize the challenges the community faces in preserving these traditions and way of life.

As their faith prescribes, Amish children end their formal education upon completion of the eighth grade. Thereafter, they are exempt from state laws making school attendance compulsory. For this reason, the Department permits Amish youth who have completed the eighth grade and are at least 14 years of age to work more hours than are normally permitted 14- and 15-year-olds and to work during traditional school hours. This is a longstanding accommodation made by the Department.

Following the end of their formal education, Amish youth begin working alongside their families and others in their community. These early work experiences allow them to become self-reliant within the community and teach them the values associated with a positive work ethic. In the past, many Amish children worked on a family farm. However, with farmland becoming scarce and expensive, the opportunities for Amish children to work on a family farm have declined. Many of the young people who want to remain with their families now transition to non-farm occupations like woodworking. As I will discuss, however, the employment of youth in the sawmill and woodworking industries is, like many other industries, limited by the statutory and regulatory requirements of the FLSA.

FLSA CHILD LABOR PROVISIONS

Mr. Chairman, the FLSA specifically prohibits minors under the age of 16 from working in manufacturing, which includes the sawmill and woodworking industries. The statute also directs the Secretary of Labor to prohibit the employment of minors under the age of 18 in occupations found to be particularly hazardous or detrimental to the health or well-being of these young workers. The Secretary makes these determinations in Hazardous Occupation Orders issued through the rulemaking proc-

ess. There are currently 17 Orders in non-agricultural industries, and two are of particular concern for this issue.

Hazardous Occupations Order No. 4 prohibits minors under 18 years of age from assuming any occupation in the sawmill itself, the log pond area, or the log storage yard. Not only are the tasks performed in these areas too dangerous for young workers, the areas themselves are too dangerous. The Hazardous Occupation Order does, however, contain a limited exception which would permit 16- and 17-year olds to perform tasks such as cleaning up the yard, and working in offices and repair or maintenance shops that are not in the sawmill building.

Similarly, fourteen and 15-year-olds may work in the offices of sawmills only if such work does not entail entering the sawmill building.

Hazardous Occupations Order No. 5 prohibits minors under the age of 18 from operating, assisting to operate, setting-up, adjusting, repairing, oiling or cleaning most power-driven woodworking machines. Until they reach the age of 18, young workers can operate machines or tools not prohibited by the Order and can carry out tasks such as moving materials around and handling or shipping of lumber products. However, the safeguards put in place by Hazardous Occupations Order No. 4 prohibit them from performing these tasks specifically in sawmills.

Fourteen- and fifteen-year-olds employed by woodworking operations may work only in the offices, where they are permitted to operate most office machines.

The Fair Labor Standards Act limits work hours for fourteen- and fifteen-year-olds. Normally, such youth are prohibited from any employment during school hours and, on school days, they are limited to working 3 hours per day and then only up to a total of 18 hours in a school week. However, as I mentioned earlier, Amish children of this age group who have been exempted from their state's compulsory school attendance laws may work during normal school hours.

ISSUE

A 1996 enforcement effort in Western Pennsylvania sawmills found many child labor violations. Three of the establishments investigated were Amish-owned and many others employed Amish youth. Following these investigations, the Wage and Hour Division began meeting with members of the Old Order Amish and their Congressional representatives to discuss a request for an accommodation that would permit Amish youth to work in the sawmill and other woodworking industries. Those discussions focused on the statutory and regulatory requirements. Departmental representatives explained the statutory mandate that youth under 16 may not be employed in manufacturing; the child labor Hazardous Occupation Orders in question; the basis for these orders; and the Pennsylvania State law prohibiting minors under 18 from work involving woodworking equipment and saws. At that time, the Department made no specific accommodation, but did offer compliance assistance and outreach to the Amish community.

In 1997, at the request of Congressional representatives, the Department explored the feasibility of two specific proposals to allow 16- and 17-year-olds to work in sawmills. The first proposal would have allowed 16- and 17-year-olds to work in the sawmill building as long as they remained at least 150 feet away from the sawmill equipment. The Department decided, and continues to believe, that such a rule would be very difficult to administer. It would be difficult to substantiate whether or how often any distance rule was observed. Moreover, it would be difficult for employers to comply because Amish youth would likely be called upon to approach the machinery while performing non-equipment related tasks or receiving instructions, putting them at risk of injury by the equipment or by projectiles from the equipment. More importantly, this rule would not be feasible in most Amish sawmills. These sawmills typically have such compact operations that any worker who must stay 150 feet away from the equipment would be limited to working outside of the building.

The second suggested remedy would have allowed 16- and 17-year-olds to work in a physically separate part of the sawmill building. This proposal likewise did not seem feasible. Based on visits to representative sawmills, there are no apparent operations that could take place in a separate walled-off room within a sawmill.

Even at 150 feet away from the equipment or in a physically separate part of a sawmill building, youths may still be exposed to some danger. Hazardous Occupations Order No. 4 was explicitly based not just on hazards from the equipment, but on hazards inherent in the sawmill operations, such as falling lumber.

The injury rates in these industries are high. Sawmills are dangerous places to work, even for adults. Between 1995 and 1999, an average of 25 workers a year were fatally injured on-the-job in sawmills nationwide. Most were killed when they were either struck by an object or caught in a piece of equipment. The rate of injury

BEST COPY AVAILABLE

in the lumber and wood products industry, which includes sawmills, is likewise high. In 1999, non-fatal injuries occurred at a rate of 12.5 per 100 full-time workers, over twice the national average for all industries (5.9 per 100 full-time workers). A five year average of non-fatal injuries and illness in sawmills suggests nearly 8,000 workers annually suffer injuries severe enough to warrant a day away from work.

Young workers' inexperience, smaller size, immaturity, and lack of training make employment in this industry even more dangerous for children. These factors are that much more significant for 14- and 15-year-olds. Even an adult presence in the workplace cannot always protect children from the split-second mistake that could cost them a finger, a hand, or worse. Establishing a regulatory record that would support a change in the existing Hazardous Occupation Orders—in light of identified industry hazards—would present a difficult challenge.

CONCLUSION

The Department is always happy to work with the Amish community so that it fully understands child labor obligations and their basis, and is fully aware of options on safe and legal opportunities for employing young people. For example, 16- and 17-year-olds may perform many woodworking tasks, like assembling furniture and sanding wood pieces, using traditional hand-powered tools.

Mr. Chairman, any accommodation made to address this issue—whether statutory or administrative—must be accomplished in a way that respects the cultural traditions of the Amish and protects youths from hazardous work.

We are prepared to evaluate any suggestions, including legislation, that you or other Subcommittee members may have for accommodating the needs of the Amish community while ensuring that youth are employed in circumstances that—as required by law—are not hazardous to their health or well-being.

We agree that work experience can be beneficial for young people, and we will help you explore opportunities for legal and safe employment of Amish youth. Thank you for the invitation to testify today and I would be pleased to answer any questions.

Senator SPECTER. Mr. Markey, let me ask you about the legislation which I proposed, which would allow 14- to 18-year-olds to perform limited duties such as sweeping, stacking wood, and writing orders with safety provisions which prohibit youths from operating machinery and requiring the use of eye and body protection. What would the dangers be if the activities were so limited?

Mr. MARKEY. Well, first, with regard to 14- and 15-year-olds—oh, you are talking about legislation that would change it.

Senator SPECTER. Yes.

Mr. MARKEY. The dangers would be projectiles probably and falling lumber piles. In the tight areas of sawmills, with forklifts and such, there is a possibility——

Senator SPECTER. Projectiles?

Mr. MARKEY. Wood projectiles usually, chips from the sawing.

Senator SPECTER. Perhaps that could be accommodated by an additional requirement of being a certain distance from the saw?

Mr. MARKEY. We had representatives look at some of these sawmills, and the areas are not that large, surely not 150 feet. I think these projectiles——

Senator SPECTER. Well, a projectile is not going to go 150 feet. What is the maximum distance a projectile would go?

Mr. MARKEY. I really do not know that, sir.

Senator SPECTER. Well, would you find that out? Make a determination as to where the concern is as to projectiles.

What I would like to see us do—Secretary Chao testified yesterday. I think this may well be a matter to handle administratively, but if it cannot be handled administratively, then it is a matter for congressional action. Congress may not pass it.

You raise a specific issue on projectiles. I would ask you to go back and delineate the scope of that problem so we might find a way to solve it.

Mr. MARKEY. We will do that, Mr. Chairman.

Senator SPECTER. Any other specific danger that you see beyond projectiles? You say falling?

Mr. MARKEY. Falling lumber piles, yes.

Senator SPECTER. Well, we could write a provision in about not being near falling lumber piles. If you are talking about sweeping and writing orders, you are in a pretty safe line.

I would like you to take a look at the legislative proposals, what has passed the House and what is in the Senate bill, and if you can identify other dangers, let us try to work on ways of solving them. That is what I would like you to do. Fair enough?

Mr. MARKEY. Yes, Mr. Chairman, we will do that.

Senator SPECTER. Anything else you would like to add?

Mr. MARKEY. No.

Senator SPECTER. Okay, Mr. Markey, thank you very much.

We turn now to panel three, Mr. Christ Blank, Mr. Bill Burkholder, Mr. Herman Bontrager. Would you gentlemen step forward please?

The media has already been advised that there are not to be any cameras. I do not see any in the hearing room in any event, but I raise that admonition just as a matter of form.

STATEMENT OF CHRIST BLANK, CHAIRMAN, OLD ORDER AMISH STEERING COMMITTEE, KINZERS, PA

Senator SPECTER. Mr. Blank is both a farmer and an accountant. He does tax work for Amish clients. He is Chairman of the Old Order Amish Steering Committee, a native of Lancaster, PA.

As I had announced before, Mr. Blank, the green light goes on when you start. The yellow light comes on at 4 minutes, and the red light pops up at 5 minutes. We look forward to your testimony, sir.

Mr. BLANK. Thank you. Mr. Chairman and committee members, it is with appreciation, but humbleness, that we come before your committee today. We wish to thank you for the opportunity to bring some of our concerns before you.

I am speaking here on behalf of many Old Order Amish and Mennonite communities throughout the United States. In recent years, we have been getting more and more complaints of Amish and Mennonite businesses being fined for allowing boys under age 18 to work in their place of business. Our concern is the infringement of these child labor laws on our way of life.

As many of you undoubtedly know, the Amish way of life and religious beliefs prohibit formal education beyond the eighth grade level. Typically the Amish youth leave school at the end of eighth grade, but their education does not stop. Instead, they only begin to absorb in earnest the knowledge and skills needed to earn a livelihood and support a family. Upon completion of the eight terms of elementary school, many Amish children are enrolled in an informal vocational class of learning by doing under parent and church supervision to further prepare them to enter into the adult workplace. This informal vocational class is recognized by the U.S. Su-

preme Court ruling in *Wisconsin* v. *Yoder* as a legal alternative to the compulsory school attendance laws.

At age 14, an Amish boy or girl is considered to be ready for a full course of training, a training that requires learning by doing. This adolescent period is of utmost importance to our religious status. We must not tolerate idleness during these adolescent years. Therefore, we see a dire need that our youth learn a trade or remain occupied, preferably under the supervision of the parent or church member.

It is a longstanding Amish belief and tradition to instill good work ethics in our children at a young age and to start training a child at a fairly young age to become a self-supporting, respectful, and law-abiding citizen. We strongly believe the ages 14 through 17 to be a very tender receptive age in which to instill these longstanding Amish values and work ethics in our children. We believe that forced idleness in this age to be detrimental to our longstanding Amish way of raising our children and teaching them to become good, productive citizens.

We recognize that historically the child labor laws have been more lenient on farm labor, especially on a family farm. For many years, our livelihood was largely based on agriculture, and for many it still is. However, due to many reasons beyond our control, the trend is gradually forcing more and more of our youth to learn other trades. We try to encourage an occupation where the youth is learning by doing by working in a place where the father or a member of the church is available to assist him.

We have many Amish-owned or operated sawmills among our communities. We also have many woodworking shops. Our youth are well-qualified and capable of providing hand labor in stacking and sorting lumber as it comes away from the saws. This sorting and stacking operation usually occurs some distance away from the saws themselves. However, under present regulations, no one under age 18 is allowed to work in a sawmill.

We have in the audience several owners or sawmill operators who were investigated and fined for allowing boys under age 18 to work in these various situations described above.

In our small woodworking shops, there are many occupations our children would be capable of performing. However, more and more of our small woodworking shops are finding themselves in violation with the child labor laws because of power tools that are needed to be efficient. Under present regulations, even the owner's own boy could not work until age 16 in a manufacturing operation or age 18 in any occupation which the Secretary of Labor shall declare to be hazardous.

We had a situation recently in Pennsylvania where an Amish person had a sawmill. He had two of his own boys working there. Due to a situation that occurred at a neighboring sawmill, the Department of Labor came out and investigated this particular situation here. While they did not fine the man for having his own children working there, he did receive a very stern warning from the Department of Labor saying, if we come back again, find these boys working here, we will shut down your operation. That has, of course, created a concern in the community.

There seems to be a lot of government interest in finding ways to better prepare today's youth to enter into today's workforce. Many States are drafting school to work acts. It seems coincidental that at the same time these Amish are being fined for pursuing a system that has proved successful in preparing our youth for adulthood and to be respectful, self-supporting citizens.

We realize that the object of child labor law is to protect the children. We Amish share your concern for the safety of the workplace. We have in the audience here a member of an Amish safety committee that was set up——

Senator SPECTER. Mr. Blank, your time has expired. Your full statement will be made a part of the record. So, if you could summarize, we would appreciate it.

PREPARED STATEMENT

Mr. BLANK. So, what we would ask and plea of you men of authority is to try to find some reasonable solution to the current problem and concern that we bring before you today. We wish you many blessings and the guidance from above in performing your many, very important duties as elected officials of our country. And may the Lord bless you. Thank you.

[The statement follows:]

PREPARED STATEMENT OF CHRIST K. BLANK

Mr. Chairman and Committee members, It is with appreciation, but humbleness, that we come before your committee today. We wish to thank you for the opportunity to bring some of our concerns before you.

I am speaking here on the behalf of the many Old Order Amish and Mennonite communities through out the United States. In recent years we are getting more and more complaints of Amish & Mennonite businesses being fined for allowing boys under age 18 to work in their place of business. Our concern is the infringement of these Child Labor Laws on our way of life.

As many of you undoubtedly know, the Amish way of life and religious beliefs prohibit formal education beyond the eighth grade level. Typically, the Amish youth leave school at the end of eighth grade, but their education does not stop there. Instead, they only begin to absorb in earnest, the knowledge and skills needed to earn a livelihood and support a family. Upon completion of the eight terms of elementary school, many Amish children are enrolled in an informal vocation class of learning by doing under parent and church supervision to further prepare them to enter into the adult work place. This informal vocational class is recognized by the United States Supreme Court ruling in *Wisconsin* v. *Yoder*, as a legal alternative to the compulsory school attendance laws.

At age 14, an Amish boy or girl is considered to be ready for a full course of training. A training that requires "learning by doing". This adolescent period is of utmost importance to our religious status. We must not tolerate idleness during these adolescent years, therefore, we see a dire need that our youth learn a trade or remain occupied, preferably under supervision of a parent or church member. It is a long-standing Amish belief and tradition to instill good work ethics in our children at a young age and to start training a child at a fairly young age to become a self-supporting, respectful and law abiding citizen. "Train up a child in the way he should go and when he is old he will not depart from it." (Proverbs 22:6). We strongly believe the ages 14 through 17 to be a very tender receptive age in which to instill these long standing Amish values and work ethics in our children. We believe that forced idleness in this age to be detrimental to our long-standing Amish way of raising our children and teaching then to become good productive citizens. Keeping young hands busy also keeps them out of mischief.

We recognize that, historically, the Child Labor laws have been more lenient on farm labor, especially on a family farm. For many years our livelihood was based largely on agriculture and for many still is. However due to many reasons beyond our control, the trend is gradually forcing more and more of our youth to learn other trades. We try to encourage an occupation where such youth is learning by doing

by working at a place where his father or a member of the church is available to supervise him.

Due to the high cost of our dwindling supply of farm land, more and more of our families are being forced to start small businesses such as woodworking shops, welding shops, sawmills, pallet shops etc. This is in keeping with the Amish tradition of operating a family business so the family can work together.

We have many Amish owned or operated sawmills among our communities. Our youth are well qualified and capable of providing hand labor in stacking and sorting the lumber as it comes away from the saws. This sorting and stacking operation usually occurs some distance away from the saws themselves. However, under the present regulations no one under age 18 is allowed to work in a sawmill building. We have in the audience several owners of sawmill operations that were investigated and fined for allowing boys under age 18 to work in the very situation described above. None of the owners were aware that they were in violation of the child labor law until the investigator showed up. They were told to send the boys home and warned that if he (the investigator) comes back again in several weeks and finds the boys back on the premises, he will shut the whole operation down. These threats created a great concern in the area, not only among the Amish, but also among their non Amish neighbors. They received no warning before they were fined even though the owners indicated they would comply with the order.

One of the owners related an incident to me where one of the boys, whom he was required to send home, came back and asked in tears, "When can I come to work again?" The owner of course had to say "Not until you are eighteen."

In our small woodworking shops there are many occupations our youth would be capable of performing, however, more and more of our small woodworking shops are finding themselves in violation with the child labor laws because of the power tools that are needed to be efficient. Under the present Regulations even the owners own boy could not work until age 16 in a manufacturing operation or age 18 in any occupation which the Secretary of Labor shall declare to be hazardous.

There seems to be a lot governmental interest in finding ways to better prepare today's youth to enter into today's workforce. Many states are drafting School to Work Acts. It seems coincidental that at the same time, these Amish are being fined for pursuing a system which has been proven successful in preparing our youth for adulthood and to be respectful, self-supporting citizens.

In *Wisconsin* v. *Yoder*, Dr. Donald Erickson testified that the Amish System of learning by doing was an "ideal system" of education in terms of preparing Amish children for life as adults in the Amish community. He further stated, "Many public educators would be elated if their programs would be as successful in preparing their students for productive community life as the Amish system seems to be."

We realize that the object of the Child Labor laws is to protect the children. We Amish share your concern for safety in the work place. As an illustration of our concern, in a number of our larger communities we have set up Amish safety committees. The purpose of these committees are to work with Amish businesses to help make our people more aware of safety practices that need to be instilled in our work places to make them safer.

As Old Order Amish, we desire to be a self supporting group, taking care of their own needy and elderly people, in their own way, without depending on the government for assistance. In the past we have been granted a number of exemptions from participating in various programs or requirements which our forefathers saw as being detrimental to our way of life or which our religious beliefs prohibit. We very much appreciate the many privileges which we have been granted over the years. It is our deepest desire to continue to be a self-supporting group and not to become a burden on society.

We ask and plea of you men of authority to find some reasonable solution to this current problem and concern that we bring before you today. We wish you many blessings and the guidance from above in performing your many very important duties as elected officials of our country. May the Lord Bless you.

Senator SPECTER. Thank you very much, Mr. Blank.

STATEMENT OF WILLIAM BURKHOLDER, OWNER, C.B. HARDWOOD LUMBER CO., CENTERVILLE, PA

Senator SPECTER. We turn now to Mr. Bill Burkholder, an Amish sawmill owner and operator from Centerville, PA, who was cited and fined by the Labor Department for child labor violations. His company, C.B. Hardwood, employs 50 people, most of whom are

Amish. Thank you for coming in, Mr. Burkholder. We look forward to your testimony.

Mr. BURKHOLDER. Thank you. Mr. Chairman and committee members, thank you for the opportunity to present to you our concern regarding well-intended child labor laws and the adverse impact some of these laws are now having in our Amish community to our way of life.

I am sure you are aware children in our community finish classroom school in eighth grade, learning the essentials of reading, writing, and arithmetic. While this learning is an important part of shaping their lives, preparing them for adulthood, their success with our way of life requires other skills as well. Many of our adult occupations have been learned by doing. Despite living in a technological world, we have limited ourselves by choice to occupations that leave time for our faith in God and for our families. Farming, carpentry, wood and metal shops, sawmills, harness making, and furniture making are some of the ways I am sure you recognize we earn our living. They are occupations that reinforce self-reliance within our group or community as well as the work ethic.

While many of your own children might have a computer at an early age to begin to acquire the skills they may need to thrive in a modern, fast-paced world, our society requires faith and tradition to keep itself together to continue to thrive in our modern world. Again, this tradition is one of our faith in God, a belief in the importance of our families, of self-reliance within our group, and hard work. These beliefs and lessons we share with our children, even at a very young age. They learn by our example and by doing.

We recognize that child labor laws were made and needed to correct abuse in the past. These laws still help ensure that children are not forced into unsafe, exploitive labor. We hope you recognize that we pursue the same goal as you regarding the safety of our children.

In 1971, the Supreme Court, by its decision in *Yoder* v. *Board of Education*, recognized the intent and purpose for us to educate our children in our schools. Graduates from our Amish schools are most often eager to prove themselves as hard workers. They turn to farm, shop, or mill owners like myself, to earn an income to get started on a farm or other business on their own. This is a cycle that has repeated itself successfully throughout the history of our community in the United States.

PREPARED STATEMENT

Despite rising land costs, property taxes, income taxes, school taxes, startup costs for businesses, buildings, equipment, and machinery, our young people overcome many obstacles to start off on their own in our community. Besides a commitment to hard work to achieve their goals, they also must rely on their families and business owners like myself to help them get started.

[The statement follows:]

BEST COPY AVAILABLE

PREPARED STATEMENT OF WILLIAM BURKHOLDER

INTRODUCTION

Thank you for the opportunity to present to you our concerns regarding well-intended child labor laws, and the adverse impact some of these laws are having in our Amish community, to our way of life.

As I'm sure you are aware, children in our community finish classroom school in eighth grade, learning the essentials of reading, writing, and arithmetic. While this learning is an important part of shaping their lives, preparing them for adulthood, their success with our way of life requires other skills as well. Many of our adult occupations have been learned by doing. Despite living in a technological world, we have limited our selves, by choice, to occupations that leave time for our faith in God, and for our families. Farming, carpentry, wood and metal shops, saw mills, harness making and furniture making are some of the ways I'm sure you recognize we earn our living.

They are occupations that reinforce self reliance within our group or community as well as the work ethic. While many of your own children might have a computer at an early age to begin to acquire the skills they will need to thrive in a modern, fast paced world, our society requires faith and tradition to keep itself together to continue to thrive in a modern world. Again, this tradition is one of our faith in God, a belief in the importance of our families, of self reliance within our group and hard work. These beliefs and lessons we share with our children, even at a very young age. They learn by our example and by doing. We recognize that child labor laws were made and needed to correct abuses in the past. These laws still help insure that children are not forced into unsafe, exploitive labors. We hope you recognize that we pursue the same goal as you regarding the safety of our children.

In 1971, the Supreme Court, by its decision in *Yoder* v. *Board of Education* recognized the intent and purpose for us to educate our children in our own schools. Graduates from our Amish schools are most often eager to prove themselves as hard workers. They turn to farm, shop, or mill owners like myself, to earn an income to got started on a farm or other business on their own. This is a cycle that has repeated itself successfully throughout the history of our community in the United States.

Despite rising land costs, property taxes, income taxes, school taxes, start up costs for business, buildings, equipment and machinery, our young people overcome many obstacles to start off on their own in our community. Besides a commitment to hard work to achieve their goals, they must rely on their families and business owners like myself to helm them get started.

Senator SPECTER. Thank you very much, Mr. Burkholder.

STATEMENT OF HERMAN BONTRAGER, SECRETARY/TREASURER, NATIONAL COMMITTEE FOR AMISH RELIGIOUS FREEDOM

Senator SPECTER. We now turn to Mr. Herman Bontrager, President of Goodville Mutual Casualty company in New Holland, PA. He grew up in an Amish home in Indiana, living in Pennsylvania for the past 25 years, a member of the Board of the National Committee for Amish Religious Freedom. Thank you for joining us, Mr. Bontrager. We look forward to your testimony.

Mr. BONTRAGER. Senator Specter, committee members, friends, thank you for the opportunity to comment today.

The National Committee for Amish Religious Freedom was organized to help the Amish regain their right to educate their own children. The committee's most notable achievement was when the late constitutional attorney, William Ball, successfully defended the Amish in *Wisconsin* v. *Yoder* in the U.S. Supreme Court. Some of the issues related to apprenticeships of Amish youth in family and Amish businesses are the same as the religious liberty issues in Wisconsin v. Yoder.

The Amish and Mennonites, stemming from the 1525 Anabaptist stream of the Protestant reformation, believe that it is essential to imitate the life and spirit of Jesus and to follow his teachings in

all of life. Faith for them is not only a personal belief, it is a corporate practice nurtured by the community. In the Amish way of life, the sacred and the secular are inseparably intertwined.

Amish believe that children are a gift from God. Parents, supported by the Amish community of faith, take seriously their responsibility to prepare children for life. That formation consists of wisdom, such things as character, honesty, humility, long-suffering, concern for the welfare of others. It includes a work ethic, a commitment to quality, and the vocational skills that equip children for useful adult participation in the community in the Amish way of life.

The Amish way of life is both a religious and a social commitment. Thus, it is important that work be performed in the context of a supportive community, in other words, at home or as close to home as possible. I quote Rev. William Lindholm, the chairman of our committee. "Only Amish persons can model and teach children to be Old Order Amish. If the Amish cannot teach their own children Amish ways, their religious culture will be destroyed."

Thus, teaching by example is essential and is the preferred pedagogy of the Amish. Working together as a family or in the community forges a strong sense of identity, family cohesion, and a sense of responsibility.

Amish vocational training is primarily accomplished through apprenticeships in the context of their extended families. They do not utilize high schools or vocational schools, technical schools, or colleges for training. Apprenticeships adequately meet the training needs of Amish young people and help to keep them integrated in the Amish community during those crucial adolescent years. This system keeps their children off the streets, out of prisons, and makes them contributors to the welfare of the community at a very early age. It is important to the Amish to train children to do the best they can in their work and to do it safely.

So, I urge the Senate to enact legislation to amend the Fair Labor Standards Act in a manner that will make it possible for Amish and other religious groups such as Old Order Mennonites and Brethren to maintain their time-tested practice of apprenticeship. A labor code that makes it possible for the Old Order religious community to provide for vocational training will help to preserve the Old Order way of life.

The Old Order way of life is, first and foremost, a matter of conscience based on religious faith. Apprenticeships, one of the few acceptable means available to Amish and Old Order groups to bring up their children in the heart of the community, are in effect a religious practice for them. Apprenticeships are the means for holistic formation of Old Order youth. They are not inappropriate child labor practices that exploit children in large factories to serve the profit motives of outside investors. It is of compelling interest to the state to assure that there is adequate provision for these religious groups, the Amish and other Old Orders, to train and bring up their children according to the dictates of their conscience and their faith.

Anabaptist faith understands that all aspects of life, whether spiritual or material, whether worship or work, are to be lived humbly under the Lordship of Christ. Religious faith is the basis

for the Amish way of life. The U.S. Constitution assures liberty for all citizens to believe and practice their faith as conscience dictates. The Nation's laws need to uphold that religious liberty. Amish apprenticeships do not present any threat to public health and safety nor to the welfare of any segment of our society.

PREPARED STATEMENT

Wisconsin v. *Yoder* set a strong precedent in support of the Amish providing education and for training their children in ways that preserve their community. This is a matter of conscience, and thus we need legislative relief.

[The statement follows:]

PREPARED STATEMENT OF HERMAN BONTRAGER

Thank you for the opportunity to talk with you about the unique training needs of Amish youth and preservation of the Amish way of life. I am interested in testifying on this matter for the following reasons: (a) I was raised in an Amish family and community in Northern Indiana and personally benefited from the vocational and values training that is an integral part of the Amish way of life; (b) I am concerned that the United States government unequivocally respect and support the freedom of conscience of all its citizens; and (c) I work with the National Committee for Amish Religious Freedom.

The National Committee for Amish Religious Freedom was organized to help the Amish regain their right to educate their own children. The Committee's most notable achievement was when the late constitutional attorney William Ball successfully defended the Amish in *Wisconsin* v. *Yoder* in the U.S. Supreme Court. Some of the issues related to apprenticeships of Amish youth in family and Amish businesses are the same as the religious liberty issues in *Wisconsin* v. *Yoder*.

1. The Amish and Mennonites, stemming from the 1525 Anabaptist stream of the Protestant reformation, believe that it is essential to imitate the life and spirit of Jesus and to follow his teachings in all of life. The Amish community is where individuals live out their faith. Faith for them is not only a personal belief, it is a corporate practice nurtured by the community. In the community Amish find support from fellow followers of Christ, live in harmony and support each other, and discern how to relate redemptively to the larger world. In the Amish way of life the sacred and the secular are inseparably intertwined.

2. Amish believe that children are a gift from God. Parents, supported by the Amish community of faith, take seriously their responsibility to prepare children for life. That formation consists of wisdom, (including character, honesty, humility, long-suffering, concern for the welfare of others), a work ethic, commitment to quality, and the vocational skill that equip children for useful adult participation in the community, in the Amish way of life.

3. The Amish way of life is both a religious and social commitment, nurtured within the Amish community as individuals live out their faith in everyday life activities. It is important that work be performed in the context of a supportive ethnic community, in other words, at home or as close to home as possible. Passing on the values of the Amish way of life and teaching the skills their children need for living in the community are a sacred trust assumed by Amish parents and the whole community. "Only Amish persons can model and teach children to be Old Order Amish . . . . If the Amish cannot teach their own children Amish ways, their religious culture will be destroyed" (Lindholm, 1993: 120–121).

4. The agrarian way of life, farming, is by far the best way to preserve the Amish way of life. Both parents are present, the family is together for work and play, children learn life skills by being with and observing their parents and other family members, children learn vocations by helping in the real work of their parents' livelihood (on the job learning, constantly supervised by someone who really cares for them), and children experience validation by doing work that contributes to the welfare of the family. Children are encouraged to be useful but are not pushed to perform tasks beyond their ability. Teaching by example is the preferred pedagogy of the Amish. Working together as a family forges a strong sense of identity, family cohesion and a sense of responsibility.

5. Occupational diversification has increased among the Amish as farming is no longer available for all. Unavailability of farmland, the high cost of investment to start farming, and competition with high tech, corporate farming have forced Amish

to adopt other vocations. To preserve the family as the primary work unit and to retain control over the work environment the Amish develop small businesses so they do not need to work in large outside businesses. This emerging adaptation to keep parents and children working together makes it possible to keep their young people in a setting where they are supervised by family or others from the Amish community.

6. Whether it is on the farm or in the numerous other occupations they pursue through their own businesses and cottage industries, Amish vocational training is primarily accomplished through apprenticeships in the context of their extended families. They do not utilize high schools, vocational schools, technical schools or colleges for training. Apprenticeships adequately meet the training needs of Amish young people and help to keep them integrated in the Amish community during the crucial adolescent years. This system, which provides both technical training and values transmission in the context of the family, keeps children off the streets, out of prisons and makes them contributors to the welfare of the community at an early age. Apprenticeships are effective for this religious group and do not cost the state or federal governments anything.

7. Motivated by love for their God-given children and a commitment to equip them with practical life skills for living in the Amish community, parents take very seriously the task of providing relevant training and formative experiences for their children. Learning life skills and developing a sense of responsibility are most effective when done in the context of real, meaningful work. It is important to the Amish to train children to do the best they can in their work and to do it safely. Thus, careful supervision and instruction are provided, preferably by the parents or another family member. Supervision by non-family members is also dependable since it is the heartfelt desire of Amish people to retain their children in the community and to help them become productive contributors to the welfare of the Amish community.

8. I urge you to enact legislation to amend the Fair Labor Standards Act in a manner that will make it possible for the Amish and other religious groups such as Old Order Mennonites and Brethren to maintain their time-tested practice of apprenticeship. A labor code that makes it possible for the Old Order religious community to provide for vocational learning in the context of the ethnic community and family will help to preserve the Old Order way of life. The Old Order way of life is first and foremost a matter of conscience, based on religious faith. Apprenticeships, one of the few acceptable means available to Amish and other Old Order groups to bring up their children in the heart of the community, are, in effect, a religious practice for them. Apprenticeships are the means for holistic formation of Old Order youth, they are not inappropriate child labor practices that exploit children in large factories to serve the profit motives of outside investors. It is of compelling interest to the state to assure that there is adequate provision for these religious groups, the Amish and other Old Orders, to train and bring up their children according to the dictates of their conscience and their faith.

9. The relief sought through an amendment to the Fair Labor Standards Act is to provide flexibility that permits Amish and other Old Order youth ages 14 to 18 years to learn skills and values by working in what are the typical and common businesses operated by Amish and other Old Order groups. It is not to compromise their safety. Supervision by adult family members or other adults from the Amish community and certain limitations on activities these youth may perform are acceptable requirements.

10. Anabaptist faith understands that all aspects of life, whether spiritual or material, whether worship or work, are to be lived humbly under the Lordship of Christ. Religious faith is the basis for the Amish way of life. The U.S. constitution assures liberty for all citizens to believe and practice their faith as conscience dictates. The nation's laws need to uphold that religious liberty. Amish apprenticeships do not present any threat to public health and safety nor to the welfare of any segment of society.

Wisconsin v. *Yoder* set a strong precedent in support of Amish providing education and training for their children in ways that preserve their community.

Thank you for your consideration in this matter that is vital to the interests of the Amish and other religious communities.

Senator SPECTER. Thank you very much, Mr. Bontrager.

I am going to have to recess the hearing for just a few minutes. I also serve on other committees like Judiciary, and they are waiting to get a quorum to vote out the new Deputy Attorney General and Solicitor General. So, if you will excuse me for just a few min-

utes. There are some other matters I want to conduct in this hearing. I will return.

The recess is now in effect.

[A brief recess was taken.]

Senator SPECTER. Our hearing will resume.

Mr. Bontrager, let me begin with you on your articulation of the issue of apprenticeship as a form of religion which is an articulation which would bring this kind of work into the Freedom of Religion Clause, the exercise of religion. Would you amplify as to how you would describe the apprenticeship being a form of religious activities?

Mr. BONTRAGER. Well, I would not use the words exactly that way because the Amish way of thinking is you cannot separate the scared and the secular, work from all the other activities of life. So, apprenticeship is just part of being a faithful follower of Jesus, as is every other thing we do. For example, you and I, all of us in this room, from the Amish perspective, are doing all of this in the presence of God, and thus everything we do needs to honor God.

Senator SPECTER. I thought that you had said—I made a note here—apprenticeship is a form of religious activity. Am I incorrect about that?

Mr. BONTRAGER. Well, I said because of the reasons I just articulated, one of the few acceptable means—apprenticeships, that is, to bring up children in the heart of the community, are in effect a religious practice for them, but as is everything that one does in that sense.

Senator SPECTER. Well, you might have a little harder justification for making apprenticeship a form of religious activity if you have a blank characterization of all activities being religious. But if there were something about an apprenticeship as a pursuit of religion as the Amish view it, it might put it in a different category.

Mr. BONTRAGER. Apprenticeship the way the Amish do it, which needs to be in the context of the Amish community and the family, learning all of life's values and skills in that context in that sense is what I mean to——

Senator SPECTER. It certainly is a form of religious activity to organize their lives in a different way from others to, as you say, have the telephone in a different spot, to not have carriage tops. Well, it is an interesting concept that I wanted to develop with you.

I think it was your comment, Mr. Blank, that you said that the young people who work in the sawmills are some distance from the sawmills. What did you think of what Mr. Markey said about the danger of projectiles?

Mr. BLANK. Well, I would say that most of the sawmills that I have seen in operation, you have your saw where the logs are actually being sawed, and there are always some conveyors. Most of those conveyors I have seen are usually a length of probably 100 foot or so away from the saw. I just do not see that——

Senator SPECTER. You say the individuals are 100 feet or so?

Mr. BLANK. At least that. Would you not say so, Bill?

Mr. BURKHOLDER. Yes.

Mr. BLANK. What they are doing, they are just stacking lumber, sorting lumber.

Senator SPECTER. And the projectile should not go nearly that far?

Mr. BLANK. No, I would not say.

Senator SPECTER. What would you say the maximum distance a projectile could go?

Mr. BURKHOLDER. 90 feet, 100 feet. It's maximum.

Senator SPECTER. How would it go that far?

Mr. BURKHOLDER. Well, by the time it leaves the saw, it goes through the edger, and when it goes out, they pile it out and push it down conveyors.

Senator SPECTER. Well, that is the lumber going 90 feet or 100 feet. Is that what you are saying?

Mr. BURKHOLDER. Yes.

Senator SPECTER. A projectile is a piece of wood which would splinter off and might snap up and hit somebody. I never worked in a sawmill, but as a teenager, I worked in my dad's junk yard. And I used to run an oxyacetylene torch, and there would be a lot of sparks which would fly and you try to get away from the sparks. That is not quite a projectile, but you try to get out of the way.

Mr. BLANK. I just do not see that the projectile for that distance from the saw should be any problem or concern at all.

Senator SPECTER. Well, what is the maximum distance, Mr. Blank, that you think a projectile might fly?

Mr. BLANK. Oh, I would say 15, 20 feet maybe.

Senator SPECTER. How would it go that far?

Mr. BLANK. Well, when I am talking about projectiles, I am not looking at a big piece. I am looking at small chips of wood that might fly off the saw or something like that. Due to the saw being spinning, it might throw a piece off. But I do not see any big pieces flying that distance.

Senator SPECTER. And if it went as far as 15 or 20 feet, how big would it be?

Mr. BLANK. Oh, that might be, I would say, a couple inches in diameter maybe or something like that, and that would be the maximum.

Senator SPECTER. Do the people around there wear eye protection?

Mr. BURKHOLDER. As a rule, yes, eye protection and ear plugs.

Senator SPECTER. If it hit you in the eye, it could do a lot of damage. If it hit you on the arm, it might give you a bruise. I got hit by a squash ball this morning.

Mr. BURKHOLDER. That is very, very seldom. I have never seen anything——

Senator SPECTER. You have never been hit by a squash ball you say?

Mr. BURKHOLDER. I have never seen anything fly when—I have been in the mill business for 20 years.

Senator SPECTER. I am just kidding you, Mr. Burkholder, about the squash ball, but I am making the point that if you get hit in the arm, you are not likely to be injured severely. You might have a bruise. You probably would not even have a cut.

Well, I want to examine this, and that is why I have asked Mr. Markey to examine it to see what the risks are and how we might protect——

BEST COPY AVAILABLE

Mr. BURKHOLDER. The man that cuts the wood—if the off-bearer takes the wood away—and if that hits that saw, I know when I was a little boy, there was a man about 21 years old and the fellow let that piece of wood drop on the saw and it took him right over the top and it caught his head right there and killed him instantly. But you have to be very cautious with that.

Senator SPECTER. You are talking about the guy who is operating the saw right on the spot.

Mr. BURKHOLDER. Right.

Now, what we are asking to work is from the opposite direction. It would not be anything in that direction at all.

Senator SPECTER. So, the young people would not be in the line of fire.

Mr. BURKHOLDER. No.

Senator SPECTER. It must have been a very unusual thing for a man to be killed.

Mr. BURKHOLDER. Right. It is very unusual.

Senator SPECTER. A blow to the head would have to be ordinarily pretty strong, hit a very tender spot.

Mr. Burkholder, tell us a little about the situation where you were fined by the Department of Labor. What occurred on that?

Mr. BURKHOLDER. Well, I have six boys and I had them in the pallet shop.

Senator SPECTER. Six of your sons?

Mr. BURKHOLDER. No. My boys were there when they was young. They started out as soon as they were out of school, but they were old enough that they did to go back that far. They did not get my boys.

I had them in the pallet shop on the mill, and we take our lumber from the mill. We take it 200 feet away from the sawmill, and we lay it on a conveyor. It moves real slow and the boys——

Senator SPECTER. So, how close were these boys? You had eight boys or six boys?

Mr. BURKHOLDER. These were the lumber after it was sawed.

Senator SPECTER. Did you have six boys or eight boys?

Mr. BURKHOLDER. Six boys.

Senator SPECTER. And how close were the boys to the saw?

Mr. BURKHOLDER. About 200 feet from the saw. And that is where they were piling the lumber, and they said the lumber was too heavy.

Senator SPECTER. So, the fine was for the heaviness of the lumber.

Mr. BURKHOLDER. Yes.

Senator SPECTER. How much does the lumber weigh?

Mr. BURKHOLDER. Well, at times you might get a board that weighs 100 pounds, but very seldom.

Senator SPECTER. Well, if you had a board that weighed 100 pounds, does the boy have to pick it up?

Mr. BURKHOLDER. No, not completely. He drags the board over and puts it on the cart and then grabs the other end and shoves it on over.

Senator SPECTER. When I was 15, I used to have to lift up 3-inch tubing which was 30 feet long and 10 pounds a foot. I had to lift

150 pounds up to throw it on a bolster. Where was the Department of Labor on that case, Mr. Markey?

We ought to take a look at that too, Mr. Markey, to see about weight so that you do not have to lift something which is unreasonable. I would like your judgment, Mr. Markey—we are going to get you into the ergonomics hearing now—as to how much you can lift to see if you have a restriction.

We want to protect the boys. I know you men want to protect the boys. Is that not right, Mr. Blank?

Mr. BLANK. Yes.

Senator SPECTER. Mr. Burkholder?

Mr. BURKHOLDER. Yes.

Senator SPECTER. Mr. Bontrager?

Mr. BONTRAGER. Yes.

Senator SPECTER. Do you have one more comment, Mr. Burkholder?

Mr. BURKHOLDER. Yes. They said if the lumber was dry, they could do it, but as long as it was green, they would not allow it.

Senator SPECTER. We have a young man here today who I understand has some experience in this line. He is not a witness, but I would like to hear from him. Mr. Noah Byler, would you step forward please? Come up and have a chair.

STATEMENT OF NOAH BYLER

Senator SPECTER. I met Mr. Byler in my office earlier this morning. Mr. Byler, you do not have to testify because you are not on the witness list and nobody has advised you. But I hope you would be willing to say a few words about your own experience. I understand you are 21 today.

Mr. NOAH BYLER. Yes.

Senator SPECTER. Do you mind testifying?

Mr. NOAH BYLER. I do not mind.

Senator SPECTER. And you were 17 when the Department of Labor issued a citation and a fine for your work in a sawmill. Is that correct?

Mr. NOAH BYLER. Yes.

Senator SPECTER. Tell us what happened there.

Mr. NOAH BYLER. I was piling lumber on a sawmill, and they made me quit. They said it was too heavy, and I was too close to machinery.

Senator SPECTER. How close to the machinery were you?

Mr. NOAH BYLER. I was piling lumber behind the edger. From the saw, it was about 60–70 feet.

Senator SPECTER. Were there any projectiles anywhere near you?

Mr. NOAH BYLER. No. And the issue that he spoke about the projectiles falling down—it would not matter if it would be a young guy or an old guy, we would not want it falling on anybody. I just cannot see a lumber pile falling down being any trouble as far as the child labor law.

Senator SPECTER. Why do you say that?

Mr. NOAH BYLER. Well, they pile the lumber, but you can walk through anywhere and something might happen, even if you are not working. I just cannot see where he has a point there.

Senator SPECTER. You were lifting lumber at that time?

Mr. NOAH BYLER. Yes.

Senator SPECTER. How heavy was it?

Mr. NOAH BYLER. The boards that I lifted, 50 pounds at the most. But I had to lift one end, put it on the pile.

Senator SPECTER. So, you lift one end of a 50 pound board?

Mr. NOAH BYLER. Yes.

Senator SPECTER. So, that makes it effectively about half that, or 25 pounds. You look like you are a pretty strong guy. Did that exert you any?

Mr. NOAH BYLER. I am physical in shape and I am okay. It never hurt me a bit.

Senator SPECTER. What was the fine that was issued?

Mr. NOAH BYLER. I am not sure. John paid it. My boss.

Senator SPECTER. Well, I think this is very helpful. What we are going to have to do is circulate this testimony with the other Senators so they understand just exactly what you are looking for here, an opportunity to carry on your way of life, which you consider to be part of your freedom of religion. You cited the Yoder case.

We have a gentleman in the audience who has raised his hand. This is irregular, but come forward. We will hear from you.

STATEMENT OF JOHN BYLER

Mr. JOHN BYLER. I just want to say a few words. He was my employee, and I was fined $3,000.

Senator SPECTER. You are talking about——

Mr. JOHN BYLER. Noah.

Senator SPECTER. You were fined $3,000?

Mr. JOHN BYLER. The other boy was 18 years old.

Senator SPECTER. Would you identify yourself for the record, please? This young lady who is the stenographer is getting very nervous. She is going to have to write down a voice out of the audience. So, if you would come forward and identify yourself, we would appreciate it. What is your name, sir?

Mr. JOHN BYLER. John Byler.

Senator SPECTER. Where is your business located?

Mr. JOHN BYLER. Harrisville, PA.

Senator SPECTER. And tell us a little about the citation and the fine please.

Mr. JOHN BYLER. Noah and his brother James is two of my employees. And the Labor Department come in and they fined me $3,000. James was 18 years old. Noah was 17 years old, but they went back 2 years. They fined them for piling the boards, like they said, 60–70 feet away from the equipment. The boards weighed 50 pounds at the most, slid them off the pile, just like——

Senator SPECTER. Were they in danger of projectiles from as far away as they were?

Mr. JOHN BYLER. No. No danger of any kind. You had like a foot or 2 that you could walk between the piles. The piles was 2–3 feet high at the most. There is no danger whatsoever.

They had to quit their jobs, had to quit working, piling the lumber, and I had to pay my $3,000 fine.

Really everything else, you know, just like Christ and the rest of them say, we try to teach them learning by doing and our faith and the ways of the Lord and tried to raise them.

Senator SPECTER. Thank you very much, sir.

CONCLUSION OF HEARING

Thank you all very much for being here, that concludes our hearing.

[Whereupon, at 10:44 a.m., Thursday, May 3, the hearing was concluded and the subcommittee was recessed, to reconvene subject to the call of the Chair.]